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Before the  
Federal Communications Commission  
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

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In the Matter of )  
Cable Television Consumer )  
Protection and Competition Act of 1992 ) MM Docket No. 92-259  
Broadcast Signal Carriage Issues )

**Reply Comments of Turner Broadcasting System, Inc.**

Turner Broadcasting System, Inc. ("TBS"), by its attorneys, hereby submits reply comments to respond specifically to the comments filed in the above-referenced proceeding by the National Basketball Association and National Hockey Leagues (collectively "Sports Leagues") dealing with the scope of the "superstation" exception to the retransmission consent requirements found in Section 325(b) of the Cable Television Consumer Protection and Competition Act of 1992 ("1992 Act").<sup>1/</sup> TBS is a diversified company which operates five program networks, including the Cable News Network, Headline News, Turner Network Television, the Cartoon Network, and TBS SuperStation.

Section 325(b)(1)(A) indicates that as a general matter, no cable system or multichannel video programming distributor may engage in an out-of-market retransmission of a commercial television station's signal without a retransmission consent agreement. The Act expressly provides, however, that this requirement does not apply to:

(D) retransmission by a cable operator or other multichannel video programming distributor of the signal of a superstation if such signal was obtained from a satellite carrier and the originating station was a superstation on May 1, 1991.

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<sup>1/</sup>See Comments of National Basketball Association and National Hockey League in MM Docket No. 92-259, filed January 4, 1993 at 8-12.

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Plainly read, this exception applies to (1) cable operators and other multichannel distributors of a superstation signal if the signal was obtained from a satellite carrier; (2) where the originating station was a superstation on May 1, 1991. As written, the May 1, 1991 date simply does not apply to distribution.

Notwithstanding the plain language of this exception, however, the Sports Leagues contend that the Commission should construe this exception so as to exclude from its protection any cable operator or other multichannel video programming distributor that began carrying the superstation after May 1, 1991.<sup>2/</sup> This perverse, anti-consumer reading of the statute, however, runs contrary to any reasonable interpretation of the provision, as evidenced by the legislative history. That history makes clear that the May 1, 1991 date embodied in this exemption -- even in its prior incarnation -- was intended to apply only to the signals of originating stations which were superstations as of May 1, 1991 and not to freeze the further distribution of superstation signals to cable systems and other multichannel

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<sup>2/</sup>Comments of Sports Leagues at 9-12. In the Notice of Proposed Rulemaking ("NPRM"), the Commission states that "out-of-market retransmissions of television signals that are delivered to a cable system or other multichannel distributor by other means, such as microwave, or whose satellite carriage began after May 1, 1991, are not exempt from retransmission consent requirements." NPRM at ¶ 47. The Sports Leagues cite this statement as indicating that the Commission subscribes to its interpretation of this exemption. Comments of Sports Leagues at 11. Again, the Sports Leagues are adding thoughts that are not there. We trust the Commission is saying only that the exemption applies only to signals carried by satellite (and not, for instance, by microwave) where the signal was carried by satellite on or before May 1, 1991.

distributors absent a retransmission consent agreement.<sup>3/</sup> The Sports Leagues' "narrow construction" of this provision is in fact a transmogrification of its plain meaning.

Moreover, the distorted construction advocated by the Sports Leagues runs contrary to one of the primary purposes of the Act, which is to "promote the availability to the public of a diveristy of views and information thorough cable television and other video distribution media" 1992 Act, Section 2(b)(1), see also Section 19 (program access provisions). The Sports Leagues' rejiggering of Section 325(b)(1)(D) would have the precise opposite effect: it would frustrate efforts by cable systems and alternate technologies to gain access to programming.

### CONCLUSION

For the foregoing reasons, TBS urges the Commission to construe this exception according to its plain meaning, in the manner intended by Congress, and in a way which effects Congress' purpose in enacting this legislation. As written, Section 325(b)(2)(D) should be construed to grandfather from the Act's retransmission consent requirement those

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<sup>3/</sup>See Senate Report 102-92, 102d Cong. 1st Sess. at 83 (indicating that under Section 325 "[c]able systems or other multichannel video programming distributors will not have to obtain retransmission consent until December 31, 1994, from any station whose signal is transmitted by common carrier or satellite carrier on May 1, 1991" (emphasis supplied).

cable systems and multichannel video programming distributors that obtain a superstation's signal by satellite carrier, where the originating station was a superstation on May 1, 1991.

Respectfully submitted,

A handwritten signature in cursive script, reading "Bruce D. Sokler". The signature is written in dark ink and is positioned above a horizontal line.

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January 19, 1993

D13205.1